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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,325	06/23/2003	David Chaplin	18217-515 (OXI-15)	1949

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EXAMINER

KWON, BRIAN YONG S

ART UNIT PAPER NUMBER

1614

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,325

Applicant(s)

CHAPLIN ET AL.

Examiner

Brian S. Kwon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 15-53 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☒ Claim(s) 1-8 and 15-53 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Application

1. Acknowledgement is made of applicant's election, without traverse, with the Group I invention along with combrestatin and sodium nitroprusside as the elected species.
2. By Amendment filed October 28, 2005, claims 9-14 have been cancelled and claims 15-53 have been newly added.
3. The newly added claims (particularly claims 33-53) are directed to the invention that is independent or distinct from the invention originally claimed invention.

It is noted that applicant has received a restriction requirement on the merits for the originally presented invention. However, the amendment filed on October 28, 2005 presenting new method claims that are drawn to a method of reducing the hypertensive effect of a vascular targeting agent comprising administering a combination of vascular targeting agent and an anti-hypertensive agent necessitates a supplemental restriction requirement in this Office action.

Election/Restrictions

4. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6 and 16-32, drawn to a process of treating a disease state associated with vascular targeting comprising administering combination of vascular targeting agent and an anti-hypertensive agent. .
 - II. Claims 33-53, drawn to a process of reducing the hypertensive effect of a vascular targeting agent comprising administering a combination of vascular targeting agent and an anti-hypertensive agent

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Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case invention II can be practiced with different effects.

Each of the above inventions II and III is drawn to the treatment of totally different conditions and would appear to seek results that differ depending on what diseases or conditions is being treated.

One practicing the invention of any of the above groups would not necessarily be required to practice any of the others. Further a reference which anticipates the invention of one of the above groups would neither anticipate or make obvious any of the other inventions. The search for above inventions would not be co-extensive, particularly as to the literature search required. Clearly each of the above inventions is capable of supporting it's own patent.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

5. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species from each group of vascular targeting agents and anti-hypertensive agents (e.g., combretastatin+propanolol or combretastatin+sodium nitroprusside) from under the instant claims of the elected Group. In addition, in case applicant elects Group I invention, applicant is required to under 35 USC 121 to elect a single disclosed species from a disease state associated with vascular targeting (e.g., neoplastic disease, non-malignant disease characterized by vascular proliferation, namely macular degeneration, diabetic retinopathy, retinopathy of prematurity, diabetic macular edema,

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uveitis, corneal neovascularization, psoriasis, rheumatoid arthritis, atheroma and restenosis).

Moreover, whatever specific compound is ultimately elected, applicants are required to list all claims readable thereon.

With the election of a specific exemplified compound, a generic concept will be identified by the examiner as the inventive group for examination.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. A telephone call was made to Naomi Biswas on June 05, 2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Kwon whose telephone number is (571) 272-0581. The examiner can normally be reached Tuesday through Friday from 9:00 am to 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, can be reached on (571) 272-0718. The fax number for this Group is (571) 273-8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications may be obtained from Private PAIR only. For more information about PAIR system, see <http://pair-direct.uspto.gov> Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Brian Kwon
Patent Examiner
AU 1614

A handwritten signature in black ink, appearing to be 'B. Kwon', followed by a long horizontal line.